

JPA 85-15

MODIFICATION NO. 1

INTERGOVERNMENTAL AGREEMENT

A.G. CONTRACT NO. 0978

ARIZONA TRANSPORTATION RESEARCH CENTER

This MODIFICATION NO. 1 is entered into this 26 day of Sept., 1985, by and between the parties ARIZONA BOARD OF REGENTS Acting for ARIZONA STATE UNIVERSITY, hereinafter UNIVERSITY, and the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter ADOT.

WITNESSETH

WHEREAS, ADOT and the UNIVERSITY have negotiated changes in the work program and other aspects of the contract, and the parties desire to amend the contract to provide for these changes, and

NOW THEREFORE, the Contract is hereby amended as follows:

I. ARTICLE II - STATEMENT OF PHILOSOPHY AND PURPOSE: is deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE II - STATEMENT OF PHILOSOPHY AND PURPOSE:

It is recognized that transportation research is essential to the mission of ADOT as a public agency of Arizona charged with responsibilities for providing efficient and safe transportation within the State. It is also recognized that transportation research is an important element in several fields and disciplines within the graduate education and research programs of the UNIVERSITY. In accordance with this philosophy, the UNIVERSITY has established the Center for Advanced Research in Transportation (CART) and has provided facilities, equipment, and staff to promote this effort. In consideration of these tenets, the parties to this Agreement join together for the purpose of sharing, developing, and encouraging research programs and projects in the field of transportation."

II. ARTICLE III - NATURE OF RESEARCH: is deleted in its entirety and the following substituted in lieu thereof:

"ARTICLE III - NATURE OF RESEARCH:

The Arizona Transportation Research Center (ATRC) will direct its efforts primarily to applied research, technology transfer, and trouble shooting as related to Arizona's transportation system needs. For example, research will be concerned with materials, operations, planning, safety, and other administrative and engineering aspects of transportation. An emphasis will be placed on Technology transfer, workshops, and seminars. Such emphasis will aid in the implementation of the research findings of ATRC as well as other research efforts applicable to ADOT problems.

A. Keeping Research Pertinent. Research will be maintained as a vital and effective force by ensuring that the technical staff of the ATRC interact with the faculty of the UNIVERSITY. In addition, the ATRC/CART staff will make visits to the field with respect to areas of their expertise on a timely and continuing basis. Each party shall exercise reasonable effort to provide sufficient resources and funds to maintain its staff competency through field trips, conferences, and other related professional exchanges."

III. ARTICLE IV - ORGANIZATION, MANAGEMENT, AND PERSONNNEL OF ATRC is deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE IV - ORGANIZATION, MANAGEMENT, AND PERSONNEL OF ATRC:

It is agreed that the ATRC is an arm of ADOT to be organized, managed, staffed and operated as provided for in this Agreement.

A. Organizational Chart. The ATRC Organizational Chart is attached hereto and made a part of this Agreement as EXHIBIT A. Changes to this Organizational Chart must be mutually acceptable to the parties and

shall not become effective until the changes are covered by an appropriate modification of the Agreement signed by both parties.

B. Policy Committee. The Policy Committee of the ATRC shall consist of the ADOT State Engineer, ADOT Assistant Director for Transportation Planning, the Dean of the College of Engineering and Applied Sciences, Chairman of the Department of Civil Engineering, and the Deputy Director of ADOT. The Directors of the ATRC and CART shall be non-voting members and serve as facilitators.

1. The Policy Committee will meet twice a year to consider overall objectives and effectiveness of the ATRC, and to review the terms and conditions of this Agreement.

C. Advisory Committees. Advisory Committees may be appointed by the ADOT operating group heads. Each Committee so appointed shall consist of a member of the ASU faculty, members of the affected ADOT operational groups, and other members as the Committee may request. An ATRC staff member shall be appointed by the Director of the ATRC to serve as facilitator for each Committee.

1. The Advisory Committees will be established to provide input to the ATRC on the development and conduct of the research program, and to aid in the implementation of the research findings. Committees will be formed in such a way that all operational areas within ADOT are represented. The Committees will be responsible for the development of research statements, development of Requests for Proposals (RFP's), evaluation of proposals, monitoring the research in progress, and the implementation of the findings. In monitoring research, the Committees may decide to develop subcommittees to oversee particular projects. The ADOT members of the committees will be responsible for prioritization of the research statements.

D. Permanent Staff of ATRC. ADOT agrees to exercise care in the selection of the permanent staff of ATRC, and to choose qualified personnel on the basis of education, ability, and characteristics that will lead to significant contributions towards the stated purposes, goals and objectives of ATRC. To the extent permissible under the State merit system statutes, ADOT also agrees to implement such measures as may be necessary to provide adequate incentives and opportunities for the staff of ATRC to advance within the ADOT structure to include the dual-ladder personnel advancement concepts.

1. Director: ADOT shall select and appoint a Director for the ATRC under State personnel selection procedures. Such appointment or change in appointment shall be made in consultation with the UNIVERSITY. The Director shall report directly to the State Engineer of ADOT.

2. Professional Staff:

a. The permanent full time professional staff of the ATRC shall be accorded Faculty Status with privileges as provided in paragraph 3 below.

b. Qualifications: Qualifications for the permanent staff of the ATRC, excluding permanent professional staff of the ADOT Research Section existing prior to the effective date of this Agreement, shall be established under the State merit system. It is a goal of the program that permanent professional employees shall have at least a Master's degree in a transportation related field and for the engineering professionals, professional registration shall be required. Personnel seeking advanced degrees will be encouraged.

3. University Benefits: The permanent full time professional and support staff of the ATRC shall be accorded the following benefits during their tenure with the ATRC:

a. Tuition Waiver: For professional staff who are employed by the ATRC at least two-thirds of normal full-time ADOT employees. Waivers shall be limited to the professional staff member only (not extended to the family).

b. Athletic and Book Store discounts.

c. Parking privileges commensurate with those available to the full time employees of the University.

d. Although the permanent full time professional staff enjoy faculty status, they are not members of the Faculty Assembly and cannot accrue time toward stability of employment or sabbatical leave.

E. Professional and Student Personnel Rotating Position Program: To help maintain viability and practicality in the ATRC, and to enhance effectiveness throughout ADOT, and to the extent permitted under the State merit system, ADOT agrees to adopt a plan of detail to special duty and educational training whereby personnel from selected jobs throughout ADOT will be rotated through ATRC for periods of approximately one to two years. During this assignment, such personnel will spend part time on research projects and doing graduate work towards a Master's or Doctorate degree as appropriate. Research must be approved by ASU for partial fulfillment of the requirements for an advanced degree, and must be approved by ADOT for funding. The Director of CART or an authorized representative will be an ex-officio member of the Graduate Supervisory Committee. It is intended that a program to rotate ASU personnel through the ADOT system will also be considered. (The ultimate advantage is that problems will be brought to the attention of the ATRC while they are small and solutions will reach the field at an early date.)

1. Qualifications: ADOT personnel selected for rotation must possess a Bachelor's degree, in a transportation related field, from an accredited university and must qualify for admittance to the UNIVERSITY's Graduate College. A person not meeting these qualifications may be admitted to the Rotating Position Program provided that is agreed to by both ADOT and the UNIVERSITY.

2. Status: While on rotating appointments, personnel must be graduate students and shall be accorded the privileges of graduate students having assistantships as permitted by the UNIVERSITY's regulations.

3. Number of Participants: ADOT will exert its best efforts to ensure that at least one rotating professional/graduate student from within ADOT will be on special educational assignment to the ATRC each year.

F. Student Assistance: Subject to available appropriations, students enrolled in courses at the UNIVERSITY may be assigned to the ATRC to act under the supervision of ATRC and be paid through the UNIVERSITY's payroll system, with funding to be provided by ADOT. ADOT shall provide written notification to the UNIVERSITY of the funds which may be expended for student assistance programs as such funds become available. Rates of pay will be commensurate with the UNIVERSITY rates of pay approved for graduate and undergraduate students and within the student pay scales of the applicable UNIVERSITY Department. The selection and assignment of students shall be accomplished as a cooperative process between the Director of ATRC and the UNIVERSITY's representative appointed hereunder.

1. Status: Students assigned to ATRC under this Agreement shall be accorded the privileges of students of the same level (graduate or undergraduate) as permitted by the rules of the UNIVERSITY for student employees of the UNIVERSITY. Such students must abide by the rules and observe the procedures of ATRC.

2. Number of Participants: A minimum of four graduate student assistantships for the academic year will be provided subject to the availability of funds. These students will usually be employed full time during the summer months.

IV. ARTICLE V - ATRC RESEARCH OPERATIONS is deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE V - ATRC RESEARCH OPERATIONS:

This Agreement anticipates that the goals and objectives of ATRC will be accomplished through the implementation of intramural and extramural programs and projects. The nature of these programs and projects will be as designed and developed by the ATRC organizational and management structure as provided in ARTICLE IV.

A. Intramural Programs and Projects: ATRC may initiate in-house programs and projects wherein the work itself is performed by the staff of ATRC, with or without outside contract or grant assistance, to achieve program goals and objectives as established by ATRC. Funding for such activities would be provided directly by ADOT from whatever sources may be available to ADOT except those arising from contract performance as described in B. below.

B. Extramural Programs and Projects: ATRC may undertake programs and projects to achieve goals and objectives established by outside organizations using ATRC personnel, consultants, and facilities as provided for herein. Such activities may include contract or grant research operations entered into by ADOT acting through ATRC as the prime contractor or grantee. Assistance for professional or other services, as well as other contract or grant requirements, may be obtained through subcontracts or subgrants issued and administered by ADOT. All such programs and projects undertaken by ATRC must be in harmony with the purposes of the ATRC as stated in this Agreement.

V. ARTICLE VI - UNIVERSITY SERVICES is deleted in its entirety and the following substituted in lieu thereof:

"ARTICLE VI - SERVICES, FACILITIES AND EQUIPMENT:

A. Professional Personnel Services Support: In order to maintain a mutually acceptable level of involvement of the UNIVERSITY in the research operations of ATRC, ADOT agrees to provide support for the services of the faculty and other professionals of the UNIVERSITY as may be needed. Funding for one faculty man year of release time will be allocated by ADOT. This release time will be distributed through the faculty as needed, but at the beginning of each semester the Directors of CART and ATRC will discuss who will be available for release.

B. Research Agreements: It is recognized that from time to time ATRC may wish to contract with the UNIVERSITY under which the UNIVERSITY shall undertake a commitment to provide certain research services or otherwise perform non-personnel services in support of the operations of ATRC. Such agreements could take the form of prime contracts, subcontracts, or purchase orders. It is agreed that such contracts negotiated and entered into by reason of the existence of this Agreement shall not be considered Intergovernmental Agency Agreements subject to the provisions of A.R.S. 11-952.

C. Technology Transfer: Technology transfer activities are considered to be very important functions of ATRC to be covered by this Agreement. Such activities may include, but not limited to, short courses, workshops, seminars, and conferences. Funding for the costs of the time of the faculty members and/or other professionals of the UNIVERSITY, space and other necessities of presenting the technology transfer shall be subject to the reimbursement terms of this Agreement.

D. Logistical Support: UNIVERSITY agrees to provide supporting services, in addition to those services provided for in ARTICLE VI, for ATRC on a reimbursable basis and within the limitations as described below:



1. Purchasing: UNIVERSITY may provide services for such material as may be necessary for the operation and maintenance of ATRC as authorized by ADOT and provided that the standing operational controls and procedures of the UNIVERSITY are utilized and that the UNIVERSITY requisitions are signed by the Director of ATRC and approved by the UNIVERSITY Representative designated herein.

2. Physical Plant Services: The UNIVERSITY will provide such physical plant maintenance services to the ATRC as are provided to other units of the UNIVERSITY located on campus. Requests for services shall be submitted in the manner required by the Director of the UNIVERSITY Physical Plant and approved by the UNIVERSITY's Representative designated in Article VIII. This provision does not restrict the Director of ATRC from making purchases for goods and services through normal ADOT procurement procedures. Any purchases made by either ADOT or the UNIVERSITY for ATRC shall be made in full compliance with the Arizona Procurement Code A.R.S. Section 41-2501 et.seq.

3. Personnel and Payroll: The UNIVERSITY will provide personnel and payroll services for ASU faculty and ASU student personnel assigned to the ATRC under the terms of this Agreement. Appropriate UNIVERSITY Payroll Action Requests shall be used for the assignment or change in the assignment of such personnel and must be approved by the UNIVERSITY Representative designated in Article VIII, as well as by all other appropriate UNIVERSITY officials.

4. Excluded: It is understood and agreed that the UNIVERSITY will not provide accounting support for intramural and extramural services for which ADOT is a prime contractor or grantee. The UNIVERSITY will, however, provide auditable records for those services furnished to the ATRC under Personnel Agreements and Research Agreements with the UNIVERSITY as provided for elsewhere in this Agreement.

5. Facilities Management and Planning: The UNIVERSITY will provide space and space management services to the ATRC as are provided to other units of the University located on campus. This will require the

development of a mutually acceptable plan within the budget constraints, operational requirements, fire and safety requirements, and facility planning standards for the campus environment. Requests for space or service shall be submitted in the required manner to the Director of Facilities Management and Planning.

E. Facilities and Equipment:

1. Space: Within the Engineering Research Building, the UNIVERSITY shall assign to ATRC, on a fee basis, a maximum of 3,500 net square feet for use as offices, laboratories, library, work areas, etc. Personnel occupancy may be audited by the Facilities Management and Planning for space utilization in accordance with the space occupancy standards set for the UNIVERSITY to commit this space to the ATRC for a five year period commencing with the effective date of this Modification No. 1; however, the parties recognize that it may become necessary, due to the exigency of an unforeseen situation, for the UNIVERSITY to relocate the ATRC to other University space on campus. In such an event, the University's Office of Facilities Management and Planning will exercise its best efforts to assign other space on campus at a personnel occupancy of equal to or exceeding that previously assigned.

2. Materials Testing Laboratory: The UNIVERSITY agrees to maintain and operate on campus, a minimum of 2,000 square feet of integrated laboratory space to be used as a materials testing laboratory. The UNIVERSITY will equip and maintain the laboratory with sufficient equipment to perform most standard specification tests.

3. Space Changes: No changes in the permanent physical structure or space provided by the UNIVERSITY shall be made without the proper approval of the University's Director of Facilities Management and Planning, the Director of the University's Physical Plant, and the Director of the University's Representative designated in ARTICLE VIII. For function and/or design changes, the approval of the University's Director of Facilities Management and Planning shall be required.

4. Permanent and/or Capital Equipment:

a. ATRC Acquired Equipment: It is agreed that ADOT may install or otherwise locate ADOT owned equipment in the space allocated by the UNIVERSITY under this Agreement. Such authorization shall be subject to the appropriate UNIVERSITY approvals, rules, and regulations concerning the installation, safety, supervision, removal and restoration of facilities and space.

b. UNIVERSITY Owned: It is agreed that subject to applicable UNIVERSITY/ATRC approvals and controls, UNIVERSITY owned equipment may be located in the ATRC space allocated under this Agreement.

c. UNIVERSITY Owned Equipment Not Located in ATRC Space: Subject to the joint use provisions hereinafter stated, and to all other prior approval requirements of the UNIVERSITY, as may be imposed at the time of usage, ATRC personnel may be allowed to use UNIVERSITY owned equipment not located in the space allocated under this Agreement.

d. Joint Usage of Equipment: The personnel of ATRC and their consultants; and the personnel of the UNIVERSITY, shall be allowed access and usage of each other's equipment on the basis of availability after consideration of each other's primary needs, and subject to the approval of the appropriate representatives of the ATRC and of the UNIVERSITY.

e. ADOT's Responsibility: To the extent authorized by law ADOT assumes responsibility for loss, damage, care and safe use of all UNIVERSITY and ADOT-owned equipment located in the space allocated to ADOT under this Agreement; ADOT further assumes responsibility for loss, damage, care, safe use, and any liability arising out of the physical presence and use of ADOT property located on the campus of UNIVERSITY by reason of this Agreement. However, notwithstanding the above, it is understood that

ADOT's responsibility and liability for UNIVERSITY owned equipment shall be limited to the extent of that assumed by other organizational units of the UNIVERSITY over UNIVERSITY owned equipment located in a UNIVERSITY building.

f. UNIVERSITY's Responsibility: To the extent authorized by law UNIVERSITY assumes responsibility for loss, damage, care and safe use of all ADOT owned equipment located, for purposes covered by this Agreement, in areas of the UNIVERSITY areas not assigned to ADOT under the provisions of this Agreement.

g. Insurance: To the extent insurance coverage is not provided for under applicable Arizona Statutes, it shall be the responsibility of ADOT to maintain adequate insurance coverage for loss and liability for ADOT property located on the campus of the UNIVERSITY under the terms of this Agreement.

VI. ARTICLE VII - REIMBURSABLE COSTS AND PAYMENTS: is deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE VII - REIMBURSABLE COSTS AND PAYMENTS:

The UNIVERSITY shall be reimbursed for the actual costs incurred by reason of this Agreement as provided below:

A. Professional Personnel Services Support: The costs of the salaries of the UNIVERSITY's faculty and other professionals assigned to the ATRC on a released time basis, as provided for under ARTICLE VI A. (based on the established salary for the individuals as employees of the UNIVERSITY), plus associated payroll expenses and indirect costs as provided for in B. below.

B. Research Agreements: All allowable direct costs as provided for in the terms of the specific research agreement concerned plus indirect costs in accordance with the following:

Source of Funds

Indirect Cost

a. State Appropriations,  
State Funds and all  
other State of Arizona  
Funds

50% of the indirect cost rate established for Arizona State University under agreement negotiated with the federal government to be applicable during the effective period of the research involved. A lower rate may be accepted by the UNIVERSITY, at its discretion, when justified by the conditions in the case under consideration.

b. Other than State Funds

Full indirect cost rate established for Arizona State University under agreement negotiated with the federal government to be applicable during the effective period of the research involved. A lower rate may be accepted by the UNIVERSITY, at its discretion, when justified by the conditions in the case under consideration.

c. Logistical Support Services: The UNIVERSITY shall be reimbursed for services rendered under ARTICLE VI D. in accordance with the following:

1. Technology Transfer pursuant to ARTICLE VI C.: Actual expenditures.

2. Purchasing: Actual expenditures.

3. Physical Plant Services: At the same cost established for such services as would be charged to other organizational units of the UNIVERSITY.

4. Personnel and Payroll: The actual amount expended for salaries, wages, and payroll expenses.

5. Space: The total amount of space assigned under the provisions of ARTICLE VI E. at the rate of ten dollars (\$10.00) per square foot per year for all space assigned to be used as office space, and at the rate of fifteen dollars (\$15.00) per square foot per year for all space assigned to be used as laboratory space.

6. Indirect Cost: For Items 1, 2, and 4 above: to be reimbursed at the rate of 10% of the direct costs.

D. Invoices and Payments: Except for the advance payment of space fees as provided for hereinafter, the UNIVERSITY shall submit monthly invoices to ADOT, on such forms as may be prescribed by ADOT, for amounts due the UNIVERSITY under the provisions of this ARTICLE VI. Invoices shall be in such detail as necessary to reflect the basis for costs in relation to the applicable ARTICLE and paragraph of this Agreement. Payments shall be made to UNIVERSITY promptly upon receipt of invoice of all services called for herein. In addition, the ADOT shall make quarterly advance payment of the fees called for herein to cover the assignment of space under the provisions of ARTICLE VI E., such advance payment to become due upon occupancy of the space by ADOT. Payments of all amounts due under this Agreement shall be made to the following address:

Office of Research and Sponsored Programs Administration  
Attn: Division of Postaward Services  
Arizona State University  
Tempe, AZ 85287

VII. ARTICLE VIII - AUTHORITIES AND AUTHORIZED REPRESENTATIVES: is deleted in its entirety and the following is substituted in lieu thereof:

"ARTICLE VIII - DESIGNATED REPRESENTATIVES AND THEIR AUTHORITY:

A. General: Due to the diverse nature of transportation research and the broad band of responsibilities within ADOT, all ADOT research will be coordinated through ATRC with recommendations to the appropriate ADOT organization for approval.

B. ADOT Representative: The Director of the ATRC appointed in accordance with the provisions of ARTICLE C 1., is hereby designated as the ADOT Representative for purposes of taking those actions called for in this Agreement which are properly taken by the designated ADOT Representative. The designated ADOT Representative shall not have the authority to change the terms or conditions of this Agreement either verbally or in writing.

C. UNIVERSITY Representative: The Director of CART, duly appointed by appropriate UNIVERSITY officials, is hereby designated as the UNIVERSITY Representative for purposes of taking those actions called for in this Agreement which are properly taken by the designated UNIVERSITY Representative. The designated UNIVERSITY Representative shall not have the authority to change the terms or conditions of this Agreement either verbally or in writing.

VIII. The following is hereby added to the Agreement as ARTICLE XIII.

"ARTICLE XIII. ARBITRATION:


The parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this agreement where the sole relief sought is monetary damages of \$15,000 or less, exclusive of interests and costs.

IX. All other terms and conditions of the Agreement continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Modification No. 1 to be executed by their duly authorized representatives on the dates shown below:

ARIZONA DEPARTMENT OF TRANSPORTATION

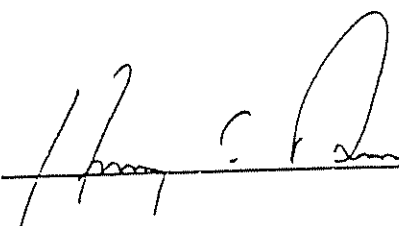
ARIZONA BOARD OF REGENTS  
Acting for and in behalf of  
ARIZONA STATE UNIVERSITY

By: 

Name: Charles L. Miller

Title: Director

Date: January 2, 1985

By: 

Name: Henry C. Reeves

Title: Vice President, Research

Date: 9/24/85



# INTERGOVERNMENTAL AGREEMENT DETERMINATION

Pursuant to A.R.S. 11-952, the foregoing agreement has been submitted to Counsel to the Arizona Board of Regents, for the benefit of Arizona State University.

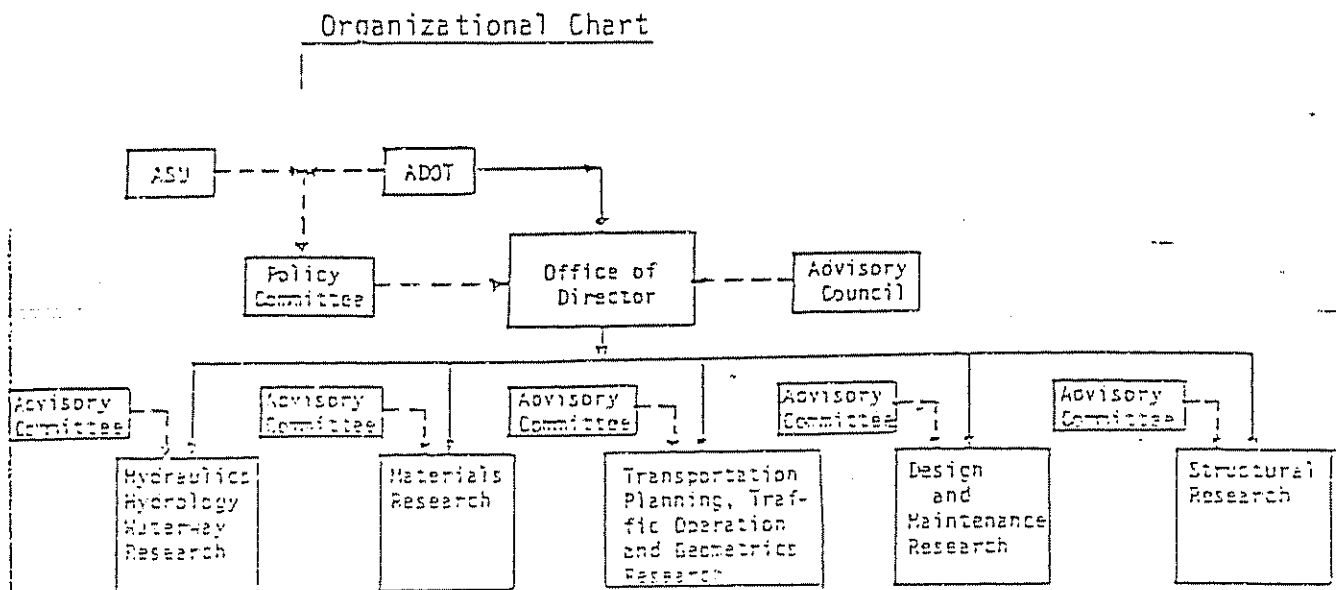
The undersigned has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Board of Regents.

DATED this 12<sup>th</sup> day of Sept, 1955

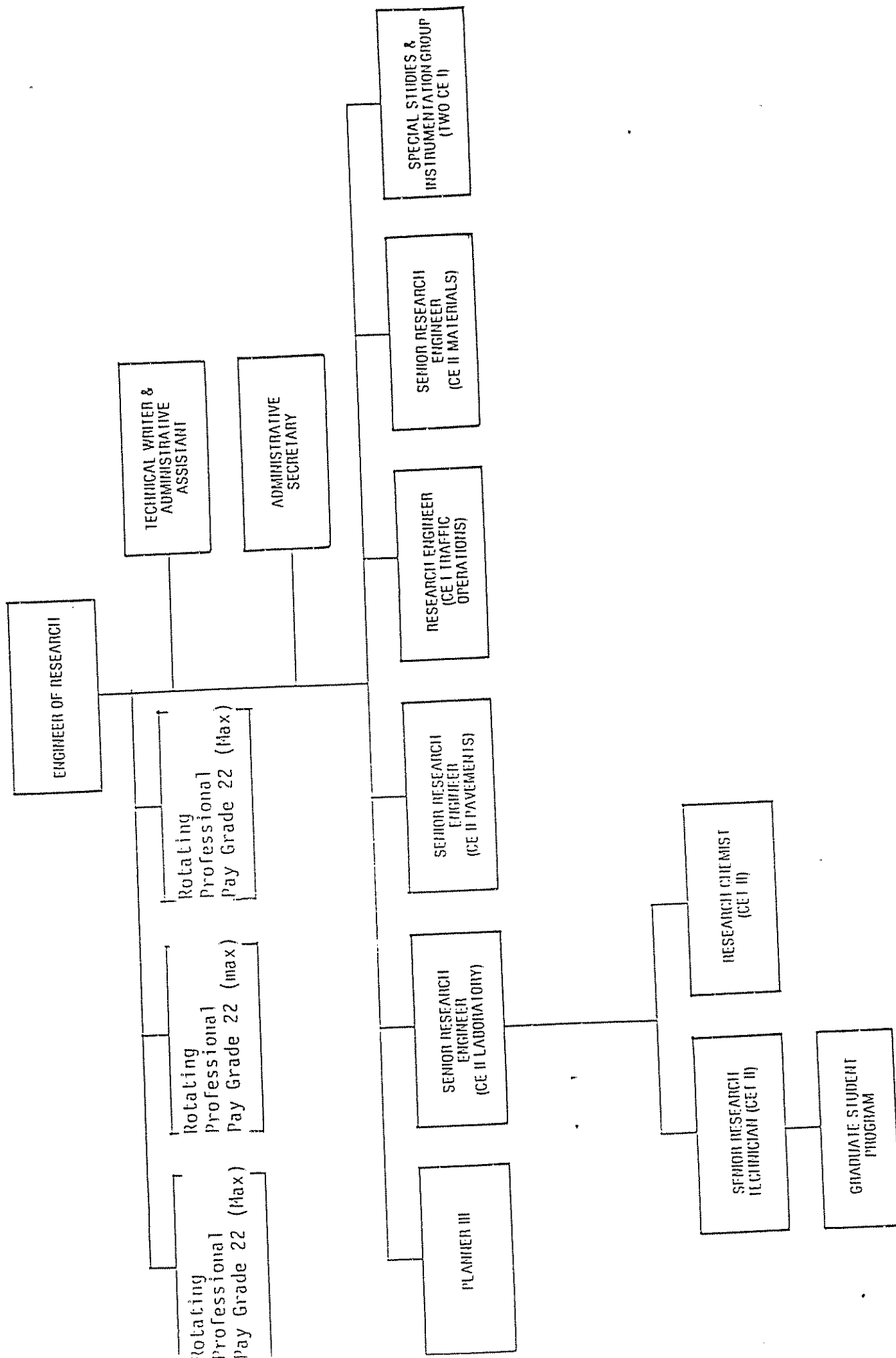
Mary C. Stevens  
Mary C. Stevens  
University Legal Counsel  
ARIZONA STATE UNIVERSITY

EXHIBIT "A"

Organizational Chart



# ARIZONA TRANSPORTATION RESEARCH CENTER





Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

INTERGOVERNMENTAL AGREEMENT

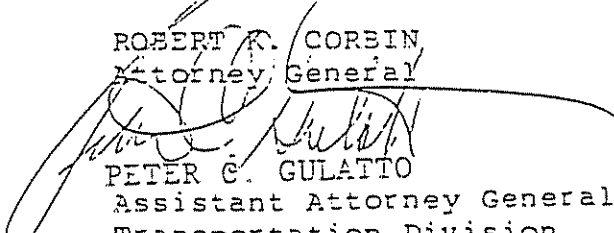
DETERMINATION

A. G. Contract No. 0978, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 24th day of December, 1985.

ROBERT E. CORBIN  
Attorney General

  
PETER C. GULATTO  
Assistant Attorney General  
Transportation Division



OFFICE OF THE  
**Attorney General**

1801 WEST JEFFERSON STREET  
FOURTH FLOOR  
PHOENIX, ARIZONA 85007

**ROBERT K. CORBIN**  
~~XXXXXXXXXXXX~~  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. 0978 which is an agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 12th day of September, 1979.

ROBERT K. CORBIN  
Attorney General

*Marilyn Pollard*

MARILYN POLLARD  
Assistant Attorney General  
Board of Regents

ROBERT K. CORBIN  
Attorney General

*Peter C. Gulatto*

PETER C. GULATTO  
Assistant Attorney General  
Department of Transportation